

REMARKS

These remarks are in response to the Communication dated October 2, 2007. No claims have been added, canceled, or amended herein. Accordingly, Claims 1-14 remain pending for consideration.

In a prior Office Action dated May 22, 2007, the Examiner rejected Claims 1-14 relying on the Alpdemir patent as teaching *inter alia* “a speech-to-text conversion engine” and “a text-to-speech conversion engine.” In response to that Office Action, Applicant submitted a declaration establishing conception of the claimed subject matter prior to the effective date of the Alpdemir patent, March 24, 2000.

In the present Communication dated October 2, 2007, the Examiner acknowledged Applicant’s evidence of prior conception. The Examiner however requested that Applicant provide further evidence of facts establishing diligence.

As established in the declaration submitted herewith, Applicant has established diligence from just prior to March 24, 2000 (the listed priority date of the Alpdemir patent) until April 14, 2000 (Applicant’s constructive reduction to practice based on the filing of the provisional application to which this application claims priority). MPEP § 715.07(a). The declaration demonstrates, *inter alia*, the diligence of Applicant’s attorney in preparing and filing the provisional application. It is well established that the diligence of an applicant’s attorney inures to the benefit of the applicant. *See e.g.*, MPEP § 2138.06.

As set forth in the declaration, Applicant disclosed his invention to his attorney prior to March 24, 2000. As of March 23, 2000, Applicant had sent a written description of embodiments of the invention (Exhibit A) to Mr. Louis Knobbe, the founding partner of the law firm Knobbe, Martens, Olson & Bear, LLP, for preparation of a provisional application. At that time, Mr. Knobbe had a reasonable docket of unrelated cases that predated Applicant’s request to prepare a provisional application. If an attorney has a reasonable backlog of unrelated cases which he takes up in chronological order and carries out expeditiously, that is sufficient to establish diligence. *Bey v. Kollonitsch*, 806 F.2d 1024, 231 USPQ 967 (Fed. Cir. 1986). In accordance with his usual practice at the time, Mr. Knobbe took up Applicant’s patent application in chronological order as he expeditiously carried out his work on his backlog of cases.

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Mr. Knobbe (and others working on this application at his direction) worked on this application diligently during the sixteen (16) business days between the listed priority date of the Alpdemir patent and the filing date of the provisional application. In accordance with his usual practice at the time, Mr. Knobbe promptly and diligently forwarded any drafts of the application to Applicant to review, and promptly filed the application once it was approved by Applicant. Similarly, in accordance with his usual practice at the time, Applicant promptly and diligently reviewed and responded to drafts from his attorneys. *See* Rose Decl., ¶ 6, filed on Sep. 21, 2007.

In view of the submitted declarations by the inventor and by his attorney, Applicant unquestionably exercised due diligence during the sixteen (16) business days between the listed priority date of the Alpdemir patent and the filing date of the provisional application. Accordingly, the Alpdemir patent does not constitute prior art under 35 U.S.C. § 102(e).

As previously established, neither the Hayman patent nor the Mueller patent constitute sufficient prior art to justify a rejection under 35 U.S.C. § 103. Thus, independent Claims 1-3, 5, 7, and 10 are allowable over the cited art. Dependent Claims 4, 6, 8, 9, and 11-14 are also allowable because they depend from an allowable base claim and/or because they recite independently patentable features. Accordingly, Applicant respectfully asserts the present application is in condition for allowance.

CONCLUSION

Applicant respectfully submits that the above rejections have been overcome and that the present application is now in condition for allowance. Therefore, the Applicant respectfully requests that the Examiner indicate that Claims 1-14 are allowable. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claim and drawings in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call the Applicant's attorney in order to resolve such issue promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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Dated: 1/31/07

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